



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

HOUSTON EYE ASSOCIATES

Respondent Name

ACE AMERICAN INSURANCE CO

MFDR Tracking Number

M4-13-3005-01

Carrier's Austin Representative

BOX NUMBER: 15

MFDR Date Received

JULY 12, 2013

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: The requestor did not submit a position summary with their request for medical fee dispute resolution.

Amount in Dispute: \$1,054.39

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The insurance carrier or its agent did not submit a response to the request for medical fee dispute resolution.

SUMMARY OF FINDINGS

Date of Service	Disputed Services	Amount In Dispute	Amount Due
May 8, 2012	CPT Codes 92012 and 92071-Lt	\$169.69	\$0.00
July 31, 2012 through September 4, 2012	CPT Code 92012-25 (1 DOS), 92012 (6 DOS) HCPCS Codes G8427 (5 DOS) and J3260 (1 DOS)	\$1,027.15	\$400.89

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.
- 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
- 28 Texas Administrative Code §102.4 sets out the rules for non-Commission communications.
- Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
- Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
- The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 8 – 29 – The time limit for filing has expired.

Issues

1. Did the requestor file the dispute timely to medical fee dispute resolution?
2. Is the timely filing deadline applicable to the medical bills for the services in dispute?
3. Did the requestor forfeit the right to reimbursement for the services in dispute?
4. Is the requestor due reimbursement?

Findings

1. 28 Texas Administrative Code §133.307(c)(1) states: "Timeliness. A requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the MDR Section receives the request. (A) A request for medical fee dispute resolution that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute." The dates of the service in dispute are May 8, 2012 through September 4, 2012. The request for medical dispute resolution was received in the Medical Dispute Resolution (MDR) section on July 12, 2012. This date is later than one year after the May 8, 2012 date of service in dispute. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307, subparagraph (B). The Division concludes that the requestor has failed to timely file date of service May 8, 2012 in this dispute with the Division's MDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for this date of service.
2. 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code §408.0272, "a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95th day after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall include a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied..." Review of the documentation submitted by the requestor finds that a copy of a USPS Track & Confirm shows a delivery was made at 11 am on November 16, 2012 in Scranton, PA. The requestor has submitted medical bills with the address of ESIS to be in Scranton, PA. Date of service July 31, 2012 required that the bill be submitted to the carrier on or before November 1, 2012; date of service August 7, 2012 required the bill to the carrier be submitted on or before November 9, 2012; August 10, 2012 required the bill to the carrier be submitted on or before November 12, 2012; and date of service August 13, 2012 required the bill to be submitted on or before November 15, 2012. The USPS Track & Confirm supports dates of service August 20, 2012, August 27, 2012 and September 4, 2012 were submitted timely to the respondent in accordance with 28 Texas Administrative Code §133.20(b) and will be reviewed in accordance with Division Rules and the Labor Code.
3. Texas Labor Code §408.027(a) states, in pertinent part, that "Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment." 28 Texas Administrative Code §102.4(h) states that "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday." Review of the submitted information finds documentation, in the form of a fax confirmation sheet, to support that a medical bill was submitted within 95 days from the date the services were provided; therefore the denial is not supported. Therefore, pursuant to Texas Labor Code §408.027(a), the requestor in this medical fee dispute has not forfeited the right to reimbursement due to untimely submission of the medical bill for dates of service August 20, 2012 through September 4, 2012 only.
4. Review of the dates of service August 20, 2012 through September 4, 2012 finds that CPT Code 92012 and HCPCS Code G8427 were billed.
 - CPT Code 97012 is defined as "Ophthalmological services: medical examination and evaluation, with initiation or continuation of diagnostic and treatment program; intermediate, established patient." In accordance with 28 Texas Administrative Code §134.203" and (b) which states, "For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is

provided with any additions or exceptions in the rules; and (c) To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$54.86..." Review of the requestor's office notes for the patient exams support reimbursement for the eligible dates of service as follows:

CPT Code 92012 – $(54.86 \div 34.0379) \times \$82.91 = \$133.63 \times 3 \text{ dates of service} = \400.89

- HCPCS Code G8427 is defined as "Eligible professional attests to documenting in the medical record they obtained, updated, or reviewed the patient's current medications. Review of Medicare and Texas Medicaid payment policies finds that this code is not assigned a relative value or payment, therefore, in accordance with 28 Texas Administrative Code §134.203(f) which states: "For products and services for which no relative value unit or payment has been assigned by Medicare, Texas Medicaid as set forth in §134.203(d) or §134.204(f) of this title, or the Division, reimbursement shall be provided in accordance with §134.1 of this title (relating to Medical Reimbursement)." In accordance with 28 Texas Administrative Code §134.1(e)(3), which states in pertinent part, "in the absence of an applicable fee guideline or a negotiated contract, a fair and reasonable reimbursement amount as specified in subsection (f) of this section." 28 Texas Administrative Code §134.1(f) states, "Fair and reasonable reimbursement shall: (1) be consistent with the criteria of Labor Code §413.011; (2) ensure that similar procedures provided in similar circumstances receive similar reimbursement; and (3) be based on nationally recognized published studies, published Division medical dispute decisions, and/or values assigned for services involving similar work and resource commitments, if available." Review of the documentation for dates of service August 20, 2012 and September 4, 2012 finds the requestor has not submitted documentation to support the amount billed; therefore reimbursement is not recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$400.89.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$400.89 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

June 6, 2014
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.